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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,827	02/27/2002	Eric C. Veine	LEAR 0844 PUS	6199
34007	7590	02/12/2004	EXAMINER	
BROOKS KUSHMAN P.C. / LEAR CORPORATION 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075-1238			BURNHAM, SARAH C	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/083,827	<b>Applicant(s)</b> VEINE ET AL.	
	<b>Examiner</b> Sarah C. Burnham	<b>Art Unit</b> 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,10-12 and 14-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5,10-12 and 15-18 is/are allowed.
- 6) ☒ Claim(s) 1, 3-4 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Suman (4,778,218). Suman discloses a headrest (10) for mounting to the back (unlabeled) of a seat (12) comprising: a base portion (20); an occupant-engaging contact portion (34) supported for relative translational movement on the base portion (20); an articulated spread-lever arrangement (40)(50) linking the base portion (20) to the contact portion (34) and operative to displace the contact portion (34) away from the base portion (20) upon relative rotation of a first link (48) relative to a second link (43) of the arrangement; and a tension spring (70) extending between the contact portion (34) and the base portion (20) as best seen in Figure 3, whereby rotation of the first link (48) relative to the second link (43) causes translation of the contact portion (34) relative to the base portion (20). With respect to claims 2 and 3, the integral end surfaces of the base portion (unlabeled), as best seen in Figure 2, serve as a track in which the contact portion (34) slides. With respect to claim 5, an actuator (62)(64)(65) in the form of a hand bulb imparts rotation of the first link (48) with respect to the second link (43) whereby the contact portion (34) is controllably translated relative to the base portion (20).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suman (4,778,218) in view of Malsch et al. (US 2002/0074843 A1). As disclosed above, Suman reveals all claimed elements with the exception of a spread lever arrangement with an over center condition.

Malsch discloses a headrest (7) having a spread-lever arrangement (17) that has an over center self locking characteristic in that "the spreading-lever arrangement is stretched until it reaches the position beyond the dead center, which is illustrated by dashed lines in Figure 1. In this position, the lever arrangement acts in a self locking manner" (paragraph [0052], line 13 – paragraph [0053], line 2).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use the over center condition taught by Malsch with the spread lever arrangement (40)(50) disclosed by Suman. Such an addition would ensure that excessive forced placed on the headrest by a seat occupant would not put excessive strain on the bladder, thereby improving the durability of the device.

5. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suman (4,778,218) in view of Bisland (3,420,572). As disclosed above, Suman reveals all

claimed elements with the exception of a track comprising a lost and a contact portion including a sidewall having a convex portion configured to ride in the slot.

Bisland teaches the use of a translatable contact portion (86) that moves relative to a base (70). The base (70) has a track (74) secured therein and the contact portion (86) has a convex portion (73) configured to ride in the slot (74).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to add slot (74) and convex portions (73) to the base (26) and the occupant engaging contact portion (34). Such an addition would ensure that the occupant-engaging portion "would be moved almost vertically upwardly into close proximity with the back of the head of the occupant" (column 3, lines 9-11). In other words, Bisland teaches the use of a track and convex portion that are designed to ensure the straight-line movement of a contact portion in relation to a base portion.

#### ***Allowable Subject Matter***

6. Claims 5-12 and 15-18 are allowed.

#### ***Response to Amendments/Arguments***

7. The amendment filed on January 23, 2004 has been considered in its entirety. Remaining issues are detailed in the sections above.

Applicant argues that Suman does not disclose any type of track. Webster's II New Riverside Dictionary defines a track as "a rail or set of parallel rails on which a train or trolley runs." The Examiner maintains that the integral end surfaces (unlabeled) of

base portion (20) function as a set of parallel rails on which the occupant-engaging portion (34) runs. The articulated spread lever arrangement (40)(50) inherently prevents "non-translational movement" in that upon expansion of the levers (40)(50) the end plate (32) and the occupant engaging contact portion (34) are permitted to only move in a single direction. This is due to the fact that the articulated spread lever arrangement (40)(50) is secured to the base (20) and the occupant engaging contact portion ((34) via plate (32) in two locations. This dual connection would prevent any sort of up and down rotation from occurring. The parallel configuration of the integral end surfaces, or track, inherently prevent any right and left rotation from occurring. Therefore, the track and the configuration of the spread lever arrangement work in conjunction to inhibit non-translational movement from occurring.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah C. Burnham whose telephone number is 703-305-7315. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SCB  
February 9, 2004

  
**Peter M. Cuomo**  
**Supervisory Patent Examiner**  
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